

BEFORE THE ADMINISTRATIVE HEARING COMMISSION  
STATE OF MISSOURI

**FILED**

DOUGLAS BRIAN MEEKS,

Petitioner,

vs.

LINDA BOHRER, Acting Director  
Department of Insurance, Financial  
Institutions and Professional Registration,  
State of Missouri,

Respondent.

AUG 12 2008

ADMINISTRATIVE HEARING  
COMMISSION

Case No.: 08-1327 DI

080729450C

**RESPONDENT'S ANSWER**

COMES NOW, Linda Bohrer, Acting Director of the Department of Insurance,  
Financial Institutions and Professional Registration ("Respondent" or "Director"),  
through counsel, and hereby answers Petitioner's Complaint as follows:

1. Respondent does not have sufficient information to admit or deny the allegations contained in paragraph 1 of Petitioner's Complaint, and therefore, denies same.
2. Respondent admits that Petitioner has held a bail bond agent license since December 22, 2004. Respondent admits receipt of Petitioner's application for renewal of his bail bond agent license on November 19, 2007 and that a copy of that application is attached to Petitioner's Complaint.
3. Respondent admits that the Refusal to Renew Bail Bond Agent License was signed by Respondent on June 24, 2008 and mailed to Petitioner on June 25, 2008. Respondent admits that a copy of the Refusal to Renew Bail Bond Agent License was attached to Petitioner's Complaint. Respondent denies the remaining allegations contained in paragraph 3 of Petitioner's Complaint.

4. The allegations contained in paragraph 4 of Petitioner's Complaint constitute a legal conclusion to which a responsive answer is not required. To the extent an answer may be required, Respondent denies the same.

5. Respondent denies that Petitioner "purportedly" pled guilty to two felonies, in that Petitioner submitted to Respondent a letter in which he admitted pleading guilty to the two felonies and receiving a suspended imposition of sentence and two years supervised probation. Along with his letter, Respondent included a copy of the indictment, the disposition of the receiving stolen property charge, an order to report to the probation office and a records check he ran on himself showing the possession of over 35 grams of marijuana charge and its disposition. The Refusal to Renew Bail Bond Agent License speaks for itself. The remaining allegations contained in paragraph 5 of Petitioner's Complaint constitute a legal conclusion to which a responsive answer is not required. To the extent an answer may be required, Respondent denies the same.

6. It is Respondent's understanding that Petitioner completed the periods of probation on both cases. The remaining allegations contained in paragraph 6 of Petitioner's Complaint constitute a legal conclusion to which a responsive answer is not required. To the extent an answer may be required, Respondent denies the same.

7. The allegations contained in paragraphs 7 and 8 of Petitioner's Complaint are legal conclusions to which a responsive answer is not required. To the extent an answer may be required, Respondent denies the same. Respondent objects to the allegations in paragraphs 7 and 8 as irrelevant and immaterial in that Petitioner admitted to and submitted documentation of his felonies to Respondent.

8. The allegations contained in paragraphs 9 through 12 of Petitioner's Complaint constitute legal conclusions to which a responsive answer is not required. To the extent an answer may be required, Respondent denies the same.

9. Respondent does not have sufficient information to admit or deny the allegations contained in paragraph 13 of Petitioner's Complaint, and therefore, denies the same.

10. Section 374.750, RSMo (2000) states: "The department may *refuse to issue or renew* any license required pursuant to sections 374.700 to 374.775 *for any one or any combination of causes stated in section 374.755.*" (Emphasis added.) The remaining allegations contained in paragraph 14 of Petitioner's Complaint constitute legal conclusions to which a responsive answer is not required. To the extent an answer may be required, Respondent denies the same.

11. The allegations contained in paragraphs 15 and 16 of Petitioner's Complaint constitute legal conclusions to which a responsive answer is not required. To the extent an answer may be required, Respondent denies the same.

12. In response to paragraph 17, Respondent states that Petitioner currently does not meet the qualifications for surety on bail bonds as provided by supreme court rule as required by § 374.715.1, RSMo (Supp. 2007) and has not met the qualifications since January 1, 2007 when Supreme Court Rule 33.17 was amended to state:

A person shall not be accepted as a surety on any bail bond unless the person:

\* \* \*

(c) Has not, within the past 15 years, been found guilty of or pleaded guilty or nolo contendere to:

- (1) Any felony of this state, any other state, or the United States; or
- (2) Any other crime of this state, any other state, or the United States involving moral turpitude, whether or not a sentence was imposed;

Petitioner has pleaded guilty to two felonies that are also crimes of moral turpitude within the past 15 years and, thus, has not been acting properly under Supreme Court Rule 33.17 since January 1, 2007. The remaining allegations in paragraph 17 constitute legal conclusions to which a responsive answer is not required.

13. Respondent does not have sufficient information to admit or deny the allegations contained in paragraph 18 of Petitioner's Complaint, and therefore, denies the same.

14. Respondent admits the Ament Order is attached to Petitioner's Complaint. The Ament Order is inapposite to this case as it is not a final order and only grants Mr. Ament a temporary renewal of his license until the question of whether retrospective application of the Supreme Court Rule qualification standards of licensure has been resolved. That question has since been resolved in the Administrative Hearing Commission in the case *Director of Insurance v. Christian*, 06-1603 DI (Mo. Admin. Hearing Comm'n February 25, 2008) (attached), which found the qualification standards of licensure at the time of filing of the application (or renewal application) apply.

15. Respondent denies the allegation contained in paragraph 20 of Petitioner's Complaint.

In further answer, Respondent states as follows:

16. On June 24, 2008, Respondent issued a Refusal to Renew Bail Bond Agent License ("Refusal Order"), refusing to renew Petitioner's bail bond agent license.

17. On June 25, 2008, the Respondent notified Petitioner by certified mail, that his Application for Renewal for his bail bond agent license was refused.

18. In the Refusal Order, mailed to Petitioner on June 25, 2008, the Respondent informed Petitioner of his right to appeal the refusal of his application for renewal of his

licensure within thirty (30) days as provided in, and in compliance with, § 621.120, RSMo (2000).

19. Petitioner contends that he is qualified for licensure or renewal of his license without examination under the laws and administrative regulations relating to bail bond agents. However, Petitioner fails to meet the qualification as required by § 374.715.1, RSMo (Supp. 2007), which states, in part:

Each application shall be accompanied by proof satisfactory to the department that the applicant is a citizen of the United States, is at least twenty-one years of age, has a high school diploma or general education development certificate (GED), is of good moral character, and meets the qualifications for surety on bail bonds as provided by supreme court rule.

Supreme Court Rule 33.17 states, in part:

A person shall not be accepted as a surety on any bail bond unless the person:

\* \* \*

(c) Has not, within the past 15 years, been found guilty of or pleaded guilty . . . to:  
(1) Any felony of this state or the United States; or  
(2) Any other crime of this state or the United States involving moral turpitude, whether or not a sentence was imposed;

At the time Petitioner submitted his application he had, within the past 15 years, pleaded guilty to the Class C felony of possession of a controlled substance (more than 35 grams of marijuana) and to the Class C felony of receiving stolen property (more than \$150 in value). Also, both of the felonies are crimes involving moral turpitude. Crimes involving moral turpitude include violations of narcotics laws, crimes involving fraud and false pretenses, and theft. *Brehe v. Missouri Dept. of Elementary & Secondary Education*, 213 S.W.3d 720, 725 (Mo. App., W.D. 2007).

Petitioner contends that, because he received two suspended impositions of sentence (SIS), he should not be refused a license based on these two felonies. However,

the Supreme Court Rule states that a person shall not be accepted as a surety on any bail bond whether or not a sentence was imposed for a felony within the past fifteen (15) years. As such, Petitioner does not meet the qualifications for surety on bail bonds as provided by supreme court rule and Respondent had no discretion to renew Petitioner's bail bond agent license. See *Phillip L. Joyce v. Director of Insurance*, No. 07-1364 DI (Mo. Admin. Hearing Comm'n July 7, 2008) (attached).

In *Joyce* (2008), this Commission found that Joyce's felony convictions and pleas disqualified him from acting as a surety on bail bonds. The Commission also found that it had no discretion to issue the bail bond license due to that fact that Joyce "failed to submit proof that he 'meets the qualifications for surety on bail bonds as provided by supreme court rule' under §374.715.1." *Id.*, at p. 11.

#### **GROUND FOR DENIAL**

20. Sufficient legal and factual grounds existed for denying Petitioner's renewal application for a bail bond agent license. They are as follows:

- a. Petitioner pled guilty to the Class C felony of possession of a controlled substance (more than 35 grams of marijuana) on June 8, 1994, subjecting him to refusal of the renewal of his bail bond agent license, under § 374.750, RSMo (2000) and 374.755.1(2), RSMo (Supp. 2007);
- b. Petitioner pled guilty to the Class C felony of receiving stolen property on June 8, 1994, subjecting him to refusal of the renewal of his bail bond agent license, under § 374.750, RSMo (2000) and 374.755.1(2), RSMo (Supp. 2007);

- c. Petitioner is no longer qualified to hold a bail bond agent license because he fails to meet the qualifications for a surety on bail bonds as provided by Supreme Court Rule 33.17, as provided in § 374.715.1, RSMo (Supp. 2007).

21. Sufficient legal and factual grounds existed for denying Petitioner's renewal application for a bail bond agent license in that Petitioner had "within the past 15 years, been found guilty of or pleaded guilty . . . to: (1) Any felony of this state, any other state, or the United States; or (2) Any other crime of this state, any other state, or the United States involving moral turpitude, whether or not sentence was imposed." Supreme Court Rule 33.17 and § 374.715.1, RSMo (Supp. 2007).

22. The facts are as follows:

- a. Petitioner was first licensed by the Department as a bail bond agent on December 22, 2004.
- b. On June 8, 1994, in the Circuit Court of St. Louis City, Missouri, Petitioner pleaded guilty to the class C felony of possession of a controlled substance (more than 35 grams of marijuana) and pleaded guilty to the class C felony of receiving stolen property (more than \$150 in value).
- c. The circuit court suspended the imposition of sentence and ordered that Petitioner be placed on probation for two (2) years.
- d. On November 19, 2007, Petitioner filed a Renewal Application with the Department seeking to renew his bail bond agent license.
- e. Petitioner's bail bond agent license expired on December 22, 2007.

f. On June 24, 2008, Respondent issued the Refusal Order, in which the Director refused to renew Petitioner's bail bond agent license.

23. Section 374.750, RSMo (2000), provides:

The department may refuse to issue or renew any license required pursuant to section 374.700 to 374.775 for any one or any combination of causes stated in section 374.755.

24. Section 374.755.1, RSMo (Supp. 2007), provides, in part:

The department may cause a complaint to be filed . . . or any one or any combination of the following causes . . .

\* \* \*

(2) Final adjudication or a plea of guilty . . . within the past fifteen years in a criminal prosecution under any state . . . law for . . . a crime involving moral turpitude . . . whether or not sentence is imposed.

25. Section 374.715.1, RSMo (Supp. 2007), provides, in part:

1. Applications for . . . licensure as a bail bond agent . . . *shall* contain such information as the department requires . . . Each application shall be accompanied by proof satisfactory to the department that the applicant is . . . of good moral character, and meets the qualifications for surety on bail bonds as provided by supreme court rule.

(Emphasis added).

26. Supreme Court Rule 33.17 provides, in part:

A person shall not be accepted as a surety on any bail bond unless the person:

\* \* \*

(c) Has not, within the past 15 years, been found guilty of or pleaded guilty or nolo contendere to:

- (1) Any felony of this state, any other state, or the United States; or
- (2) Any other crime of this state, any other state, or the United States involving moral turpitude, whether or not a sentence was imposed.

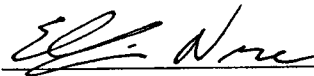


27. Petitioner must be disqualified and therefore, refused a renewal of his bail bond license based upon § 374.750, RSMo (2000), §§ 374.715.1 and 374.755.1(2), RSMo (Supp. 2007), and Supreme Court Rule 33.17 for his 1994 felony guilty pleas.

28. Moreover, even though § 374.750, RSMo (2000), provides that Respondent “may” refuse to issue a license, as Petitioner has failed to submit proof that he “meets the qualifications for surety on bail bonds as provided by supreme court rule” under § 374.715.1, RSMo (Supp. 2007), Respondent has no discretion to renew the bail bond license. *Joyce*, at p. 11.

WHEREFORE, Respondent respectfully requests this Commission uphold the decision of the Department of Insurance, Financial Institutions and Professional Registration to deny Petitioner’s application for renewal of his bail bond agent license.

Respectfully submitted,



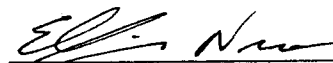
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**CERTIFICATE OF SERVICE**

The undersigned counsel hereby certifies that a true and correct copy of the foregoing was mailed first class, with sufficient postage attached, via the United States Postal Service on this 12<sup>th</sup> day of August 2008, to:

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